

## REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1, 3-18, and 20-40 are pending in the application, with claims 1, 18, 35, and 38 being independent claims. Claims 1, 18, and 35 are amended for clarification herein. Claims 2 and 19 are cancelled herein without prejudice, waiver, or disclaimer of the subject matter, the subject matter being incorporated into independent claims 1, 18, and 35. No new matter has been added.

## INFORMALITIES

The Office objects to the language of claim 38, specifically “security patches *installed* software” and contends that the language should be corrected to *install*. Applicant respectfully disagrees, and contends that the language is correct as currently recited. The claim properly recites “...providing security patches to installed software....”

During the interview, Applicant’s representatives understood the Examiner to agree that the current language of the claim is correct as recited. Applicant respectfully requests that the objection be withdrawn.

## **§103 REJECTIONS**

**A. Claims 1, 3-6, 10-12, 17, 18, 20-23, 27-29, and 34-37 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2002/0184310 to Traversat et al. (“Traversat”) in view of U.S. Patent No. 7,031,288 to Ogier et al. (“Ogier”).** Applicant respectfully traverses the rejection.

Nevertheless, without conceding the propriety of the rejection, and in the interest of expediting allowance of the application, independent claims 1, 18, and 35 are herein amended for clarification and are believed to be allowable.

**Independent claim 1**, as presently amended, recites in part:

when a length of time between a subsequent query from the computing device and other computing devices in the selected NC group exceeds a predetermined threshold:

removing the computing device from the initial NC group;

reapplying the predetermined criteria to select a different NC group; and

joining the computing device to the different NC group

Applicant respectfully submits that Traversat and Ogier fail to disclose, teach, or suggest the features of independent claim 1.

### ***Traversat***

Traversat describes a “system and method for providing peer groups in a peer-to-peer environment.” (Traversat, Abstract). Traversat outlines what “peer

groups" are in the context of the system and method described by Traversat. (Id.). Further, Traversat describes how peers may discover existing peer groups and join the existing peer groups, or how peers may create new peer groups. (Id.).

*Ogier*

Ogier is directed to a protocol for discovering a new neighbor node and detecting the loss of an existing neighbor node in a network. (Ogier, Abstract). Ogier further describes communication between nodes, including identifying neighboring nodes and looking for a change in a communications state associated with the neighboring nodes. (Id.).

**Traversat and Ogier, either taken alone or in combination, fail to disclose, teach or suggest the features of independent claim 1.**

Traversat and Ogier discuss network changes, node movement, and node communications. Traversat and Ogier discuss how a network may react, or the possible consequences to a network, as a result of the network changes, node movement, and node communications. Traversat and Ogier discuss a reactive network environment. However, amended independent claim 1, discusses a proactive network environment. Independent claim 1 discusses how a node may move from one sub-group to another sub-group proactively, based on information that the node has received indicating that the move may improve the network, i.e.,

that the move may improve communication time between nodes, and/or may improve or balance the population of node groups.

Thus, Traversat and Ogier fail to disclose, teach, or suggest “*when a length of time between a subsequent query from the computing device and other computing devices in the selected NC group exceeds a predetermined threshold: removing the computing device from the initial NC group; reapplying the predetermined criteria to select a different NC group; and joining the computing device to the different NC group*” as recited in amended independent claim 1. Thus, Traversat and Ogier fail to disclose, teach, or suggest the features of independent claim 1 amended as discussed in the interview.

Further, one skilled in the art would not be led by the teachings of Traversat or Ogier to the features or elements recited in independent claim 1, since both Traversat and Ogier discuss a reactive network environment, and the consequences to a network based on changes to the network, where the features and elements of independent claim 1 describe a proactive network environment where a node may move from one sub-group to another sub-group proactively, based on information that the node has received indicating that the move may improve the network.

Thus, Traversat and Ogier, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose, teach, or suggest the features of independent claim 1 amended as discussed in the

interview. Accordingly, independent claim 1 is allowable for at least these reasons.

**Dependent claims 3-6, 10-12, and 17** depend from independent claim 1 and are, therefore, allowable by virtue of this dependency as well as for additional features that each recites.

**Independent claims 18 and 35**, as presently amended, recite in part:

[if communication response times are unacceptable, then:]  
applying, by the computing device, predetermined criteria to select one of the one or more NC groups, wherein the predetermined criteria is selected from the group comprising:  
the number of said computing devices in the selected NC group;  
a length of time between the query and the response from the selected NC group; and  
a combination of the foregoing;  
removing the initial computing device from the initial NC group; and  
joining the initial computing device to the selected NC group

Applicant respectfully submits that Traversat and Ogier fail to disclose, teach, or suggest the features of independent claims 18 and 35 for the reasons stated above with respect to independent claim 1.

Thus, Traversat and Ogier, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose, teach, or suggest the features of independent claims 18 and 35 amended as

discussed in the interview. Accordingly, independent claims 18 and 35 are allowable for at least these reasons.

**Dependent claims 20-23, 27-29, and 34** depend from independent claim 18 and **Dependent claims 36 and 37** depend from independent claim 35. Dependent claims 20-23, 27-29, 34, 36, and 37 are, therefore, allowable by virtue of this dependency as well as for additional features that each recites.

**B. Claims 7-9, 13-16, 24-26, 30-33, and 38-40 stand rejected under 35 U.S.C. § 103(a) as being obvious over Traversat in view of Ogier, and in further view of U.S. Patent No. 7,302,256 to O'Hara, Jr. et al. ("O'Hara").** Applicant respectfully traverses the rejection.

i. **Dependent claims 7-9, and 13-16** depend from independent claim 1 and **dependent claims 24-26, and 30-33** depend from independent claim 18. Thus, dependent claims 2, 7-9, 13-16, 19, 24-26, and 30-33 are, therefore, allowable by virtue of this dependency as well as for additional features that each recites.

As discussed above, Traversat and Ogier fail to disclose, teach, or suggest the features of independent claims 1 and 18. O'Hara fails to remedy the deficiencies in Traversat and Ogier with regard to independent claims 1 and 18.

**O'Hara**

O'Hara is directed to a “wireless discovery mechanism that facilitates the deployment and configuration of managed access elements in a wireless network system.” (O'Hara, Abstract). Specifically, O'Hara discusses a system whereby un-configured access elements communicate with configured access elements by exchanging configuration information through wireless messages. (Id.). Once configured, the previously un-configured elements use the same techniques to communicate with currently un-configured elements, and the pattern continues. (Id.).

While O'Hara discusses exchange of configuration information between nodes for initial configuration of the nodes, O'Hara fails to disclose, teach, or suggest “*when a length of time between a subsequent query from the computing device and other computing devices in the selected NC group exceeds a predetermined threshold: removing the computing device from the initial NC group; reapplying the predetermined criteria to select a different NC group; and joining the computing device to the different NC group*” as recited in independent claim 1, or “*removing the initial computing device from the initial NC group; and joining the initial computing device to the selected NC group*” as recited in independent claim 18.

Thus, O'Hara fails to remedy the deficiencies in Traversat and Ogier with respect to independent claims 1 and 18, since O'Hara fails to disclose, teach, or suggest the features of independent claims 1 and 18.

Therefore, Traversat, Ogier, and O'Hara, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose, teach, or suggest the features of independent claims 1 and 18 amended as discussed in the interview. Accordingly, Traversat, Ogier, and O'Hara, whether taken alone or in combination, fail to disclose, teach, or suggest the features of dependent claims 2, 7-9, 13-16, 19, 24-26, and 30-33, due to their dependency on independent claims 1 and 18. Dependent claims 2, 7-9, 13-16, 19, 24-26, and 30-33 are allowable for at least these reasons.

ii. **Regarding independent claim 38:** independent claim 38 has been previously amended for clarification and is believed to be allowable. Further, Applicant's representatives understand the Examiner to agree, based on the interview, that independent claim 38 is allowable over the references cited, subject to further search.

**Independent claim 38,** as presently amended, recites in part:

when a length of time between the query and each said group response exceeds a predetermined threshold:  
    applying, by the initial computing device, a predetermined criteria ... consisting of:  
        the **number** of said computing devices in the selected NC group;  
        a **length of time** between the query and the other group response from the selected NC group; and  
        a **combination** of the foregoing;  
    removing the initial computing device from the initial NC group; and  
    joining the initial computing device to the selected NC group

Applicant respectfully submits that Traversat, Ogier and O'Hara fail to disclose, teach, or suggest the features of independent claim 38.

As discussed above, Traversat and Ogier discuss how a network may react, or the possible consequences to a network, as a result of network changes, node movement, and node communications, and O'Hara discusses exchange of configuration information between nodes for initial configuration of the nodes. However, Traversat, Ogier and O'Hara fail to disclose, teach, or suggest "*when a length of time between the query and each said group response exceeds a predetermined threshold: applying, by the initial computing device, a predetermined criteria ... consisting of: the number of said computing devices in the selected NC group; a length of time between the query and the other group response from the selected NC group; and a combination of the foregoing; removing the initial computing device from the initial NC group; and joining the initial computing device to the selected NC group; and updating software on computing devices in the selected NC group, wherein the updating comprises deploying software, uninstalling software, and providing security patches to installed software, and wherein the software updating includes setting the predetermined criteria to locate computing devices within the selected NC group according to backup needs of computing devices within the NC group*" as recited in independent claim 38.

Thus, Traversat, Ogier, and O’Hara, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose, teach, or suggest the features of independent claim 38 as discussed in the interview. Accordingly, independent claim 38 is allowable for at least these reasons.

**Dependent claims 39 and 40** depend from independent claim 38 and are, therefore, allowable by virtue of this dependency as well as for additional features that each recites.

For example, while Traversat and Ogier, discuss how a network may react, or the possible consequences to a network, as a result of network changes, node movement, and node communications, and O’Hara discusses exchange of configuration information between nodes for initial configuration of the nodes, Traversat, Ogier, and O’Hara fail to disclose, teach, or suggest “*wherein the predetermined criteria to select one said NC group ignores each said other group response from any said NC group for which the length of time between the query and the other group response exceeds a predetermined maximum; and the selected NC group is selected by a condition that is selected from the group consisting of: the length of time between the query and the corresponding other group response is least; or a number of said computing devices in the corresponding NC group as in contained in the corresponding other group response is least; and the number of members as contained in the corresponding other group response is least when*

*more than one said NC group had the least length of time between the query and the corresponding other group response” as recited in dependent claim 39.*

Thus, dependent claims 39 and 40 are allowable for at least these reasons.

**CONCLUSION**

For at least the foregoing reasons, claims 1, 3-18, and 20-40 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections and an early notice of allowance.

If any issue remains unresolved that would prevent allowance of this case, Applicant respectfully requests the Examiner to contact the undersigned representative to resolve the issue.

Respectfully submitted,

Lee & Hayes, PLLC  
Representatives for Applicant

/Patrick D.S. Reed / Dated: October 13, 2009

Patrick D.S. Reed ([patrick@leehayes.com](mailto:patrick@leehayes.com); (509) 944-4752)  
Registration No. 61,227  
Christopher W. Lattin ([christopher@leehayes.com](mailto:christopher@leehayes.com); (509) 944-4763)  
Registration No. 56,064  
Customer No. 22801

Facsimile: (509) 323-8979  
[www.leehayes.com](http://www.leehayes.com)